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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/635,707

08/05/2003

W. Jean Dodds

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INTELLECTUAL PROPERTY DEPARTMENT

SANTA MONICA, CA 90404

EXAMINER

WHALEY, PABLO S

ART UNIT

PAPER NUMBER

1631

MAIL DATE

DELIVERY MODE

05/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/635,707

Applicant(s)

DODDS, W. JEAN

Examiner

PABLO WHALEY

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008 and 03 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-5, 8-10, 12, 14, 17, 18, 25 and 40-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 8-10, 12, 14, 17, 18, 25, and 40-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Re-Opening Prosecution

Prosecution on the merits is hereby re-opened in view of the newly added claim rejections set forth below. Applicants' response, filed 04/03/2008, has been entered and fully considered.

Claims Under Examination

Claims 1, 3-5, 8-10, 12, 14, 17-18, 25, and 40-45 are under examination. Claims 2, 6-7, 11, 13, 15-16, 19-24, and 26-39 are cancelled.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(c) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows: The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994). The disclosure of the prior-filed applications, Application No. 09/419,192 and 09/432,851, fail to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. In particular, Application No. 09/419,192 and 09/432,851 fail to show limitations directed to selectable icons. Therefore this application is granted the benefit of priority to Application No. 60/403,203, filed 8/12/2002.

Withdrawn Rejections

The rejection of claims 1, 3-5, 8-10, 12, 14, 17-18, 25, and 43 under 35 U.S.C. 103(a) as being made obvious by Dodds (US 6,287,254; Issued: Sept. 11, 2001), in view of Trendelenburg et al. (Clinica Chimica Acta, 1998, Vol. 278, p. 229-242) is withdrawn in view of applicant's amendment of claim 1 filed 4/3/2008 directed to "selectable icons" and because Dodds (US 6,287,254; Issued: Sept. 11, 2001) should not have been applied as prior art under 35 U.S.C. 103(a) since it does not qualify as prior art under 35 U.S.C. 102 (a), (b), or (c).

The rejection of claims 1, 3-5, 8-10, 12, 14, 17, 18, 25, and 40-45 are rejected under 35 U.S.C. 103(a) as being made obvious by Trendelenburg et al. (Clinica Chimica Acta, 1998, Vol. 278, p. 229-242), in view of Dodds (US 6,287,254; Issued: Sept. 11, 2001) and Jensen et al. (J. Comp. Path., 1996, Vol. 114, p.339-346) is withdrawn in view of applicant's amendment of claim 1 filed 4/3/2008 directed to "selectable icons" and because Dodds (US 6,287,254; Issued: Sept. 11, 2001) should not have been applied as prior art under 35 U.S.C. 103(a) since it does not qualify as prior art under 35 U.S.C. 102 (a), (b), or (c).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 8, 10, 12, 14, 17, 25, and 40-45 are rejected under 35 U.S.C. 103(a) as being made obvious by Dodds (WO/2001/028415; Published Apr. 26, 2001), in view of Filteau et al. (US 2002/0188896; Filed Jun. 7, 2001), in view of Dodds (Dog World, 1992, Vol. 77, No. 4, p. 36-40), and in view of Hare et al. (Preventative Veterinary Medicine, 1996, p.239-251).

Dodds (2001) teaches a computerized animal health management system wherein remote users may input data and obtain reports relating to the health of an animal [Abstract]. Dodds shows physical data obtained from animals including breed, age, sex, pedigree, medical history, and laboratory data [p.1-2, Phenotype Data, p.8, Section A, and p.12]. Dodds shows obtaining and submitting bodily fluid samples to a veterinarian or laboratory for analysis [p.2, ¶2]. Dodds shows remote users communicating with a laboratory to receive and access data on specimens, and request laboratory services via the internet [p.22, line 25-35, p.23, and Fig. 8]. Dodds shows the use of a computer browser (i.e. program) in which a user can click on categories (i.e. selectable icons) to review database details [p.19, lines 10-20, and Fig. 4]. Dodds shows a user accessing physical health databases comprising data categorized by age, breed, disease, and diagnostic parameters [p.10]. Dodds shows users obtaining an analysis report, reading the report, and outputting the report in electronic or fax format [Col. 2, ¶ 2, and p.20, lines 5-23]. Dodds shows computer-assisted or human-based report interpretation using skilled personnel (i.e. clinical pathologists) [p.20, lines 25-32, and Ref. Claim 23]. The database server designed to interact with external computers [p.17], and can exchange information with other networked systems [p.18 and p.22, lines 15-25] and remotely located clients [Fig. 1]. Dodds shows Dodds also shows diagnostic categories for determining thyroid disease and immunity [p.13, Test 1, 2, and 3].

Dodds (2001) does not specifically teach generating supplementary diagnostic reports in combination with laboratory data, or transferring data into a second program configured to supplement the report with user input and a menu comprising selectable icons representing text to be added to a report, as in claims 1, 10, and 25. Dodds (2001) does not specifically teach enhancing a supplemental report using a toolbar, menu, icons, and a word processing program, and generating an integrated report, as in claims 1, 5, 10, 14, and 25. Dodds (2001) does not specifically disclose selectable icons for animal age and grouping, and selectable icons for grouping animals by age, breed, and disease, as in claims 1, 4, 10, 25, and 40-45.

Filteau teaches a generic medical report generation system that uses text-based menus and graphical user interfaces (GUI) to review data and generate reports [Abstract, 0004, Fig. 1]. Multiple GUIs enable text selection, cut, paste, and other functions using pull-down menus and functional push-button icons in the menu [0040, 0092, Fig. 7A, 7B, 8A]. The user may select specific diagnostic finding to be incorporated into the report [0041]. Pull-down menu buttons can be added in association with data entry fields [0084], and selectable icons and labels insert text into the report when activate [0084]. The system can retrieve a study, present diagnostic findings and studies to a GUI, and permits the physician to add self-generated diagnostic findings [0009]. The report generator can interface with web browsers for real-time display of diagnostic reports [0053]. A text-editor enables a reporting physician to add notes or other information to a report via word processing programs [0092 and Fig. 8D]. Physicians can also modify report data and group a plurality of diagnostic finding as desired [0025]. All aspects of the system are modifiable [0088]. Filteau does not specifically teach selectable icons as required by claims 1, 10, 25, and 40-45. However, the use of menus, GUIs, and selectable icons in computer based reporting systems are well known, as suggested by Filteau [0004]. Filteau also shows that their menus and icons can be tailored to fit the data [0025, 0088]. One of ordinary skill in the art would be motivated to use this system since it provides for computer-based modification and generation of multi-lingual reports [0003-0005].

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Dodds (1992) teaches methods for testing dogs for thyroid disease [p.1-2]. In particular Dodds shows large and small breeds of dog [Table 1], that certain breeds predisposed to thyroid disease, and that age is an important factor in the progression of thyroid disease [p.36, Col. 3 and Table 1]. Therefore it would have been obvious to one of ordinary skill in the art to modify the icons of Bean to include data groupings for animal breed, age, and any thyroid disease parameters (i.e. T3, T4, levels) as shown by Dodds.

Hare teaches a program for electronically collecting and reporting animal disease data. The system schema that allows for the sending of reports and medical information between remote veterinary clinics, laboratories, and a central database, and outputs reports to clients [Fig. 1]. The collected data consists of detailed information directed to animal disease, animal condition, blood work, vaccination, diagnosis, and treatment [Abstract and Fig. 2], which in turn is used to create veterinary reports [Fig. 2]. The form also allows for the input of animal history and laboratory results that are entered by laboratory staff [p.243, ¶2]. Computer programs were written to produce reports [p.245], which can also include data grouped by animal breed and disease [p.247]. Such systems are advantageous in terms automation of routine reports and responding to queries [Abstract].

It would have been obvious to someone of ordinary skill in the art at the time of the instant invention to practice the diagnostic report generation system taught by Filteau using the animal data and laboratory reports taught by Dodds (2001) for generating supplementary and enhanced diagnostic reports, since Dodds (2001) suggests the use of other expert interfaces and/or individuals for providing improved analysis [p.20, lines 25-32]. It would further have been obvious to modify the menus, graphical user interfaces, and icons of Filteau to reflect datasets and categorizations of animal age, breed, and disease state, as taught by Dodds (2001) and Dodds (1992), since Filteau shows a diagnostic reporting program that uses menus, GUIs, and selectable icons and modifies them to reflect the data of interest [0004, 0025, 0088]. One of ordinary skill in the art would have been motivated to create integrated diagnostic reports

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using the system of Filteau and laboratory data of Dodds (2001) in order to speed up the diagnostic process through real-time computer-assisted report modification and generation, as shown by Filteau [0003-0005, 0053, 0054]. One of ordinary skill in the art would have been motivated to modify the selectable menus and icons of Filteau using the databases and categorized data taught by Dodds (2001) and Dodds (1992), since these categories of data are import for monitoring animal health and thyroid disease progression, as suggested by Hare [Fig. 2] and Dodds (1992) [p.36, Col. 3 and Table 1]. Additionally, Hare shows that computer-based methods for generating and modifying diagnostic reports have been applied to field of animal health and medicine with predictable results.

Response to Arguments

Applicant's arguments, filed 04/03/2008, that the applied references do not teach features directed to obtaining and generating reports and electronically delivering a diagnosis of health of an animal through computerized data and human interpretation using the claimed icon system have been considered but are moot in view of the new grounds of rejections.

The Declaration filed 01/28/2008 and signed by Dodds (Inventor) generally asserts that the use of icons in the claimed reporting system was not an obvious development. However, it is well settled that unexpected results must be established by factual evidence. Applicant's have not presented any experimental data showing that the use of icons to produce diagnostic reports result in an unexpected advantage. Due to the absence of experimental evidence comparing the instantly claimed invention with those of the closest prior art, applicant's assertion that the use of icons to supplement diagnostic reports constitutes mere opinion. See also *In re Linder*, 457 F.2d 506, 508, 173 USPQ 356, 358 (CCPA 1972; Ex parte George, 21 USPQ2d 1058 (Bd. Pat. Appl. & Inter. 1991).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Whaley whose telephone number is (571)272-4425. The examiner can normally be reached on 9:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie Moran can be reached at 571-272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Pablo S. Whaley/

Patent Examiner

Art Unit 1631

/John S. Brusca/

Primary Examiner, Art Unit 1631